

Department of Justice

§ 17.100

granted in accordance with the provisions of § 17.95(c). Two copies of the request shall be submitted. The memorandum shall contain the following items:

(a) *Degree of clearance requested.* National security clearances are categorized into three levels, namely, Top Secret, Secret, and Confidential. The categories of security clearances are related directly to the levels of National Security Information to which access is required.

(b) *Justification for requested clearance.* A person must have a need for access to the particular classified information or material sought in connection with his/her official duties or obligations. This need-to-know is the essence for any justification for a security clearance. The justification for a clearance does not have to be long or detailed; however, a strict need-to-know shall be established before consideration to grant a security clearance can be given.

(c) *Continuous evaluation of need-to-know.* A continuing review of the established need-to-know shall be conducted by the Security Programs Manager.

(d) *Request for administrative withdrawal.* The head of each Office, Board, Division or Bureau shall make provision to request the administrative withdrawal of a security clearance of persons for whom there is no foreseeable need for access to classified information or material in connection with the performance of their official duties; for example, termination of employment or change in position. Likewise, when a person no longer needs access to classified material bearing a particular security classification category, a request that the security clearance be adjusted to the classification category still required for the performance of his/her official duties and obligations shall be made by the Security Programs Manager of the Office, Board, Division or Bureau concerned. In both instances, such action resultant from these requests will be without prejudice to the person's eligibility for future security clearances.

§ 17.99 Other access situations.

When necessary in the interests of national security, the Attorney Gen-

eral or the Assistant Attorney General for Administration may authorize access by persons outside the Federal Government, other than those enumerated above, to classified information upon determining that (a) the recipient is trustworthy for the purpose of accomplishing a national security objective and (b) that the recipient can and will safeguard the information from unauthorized disclosure. The clearance procedures and provisions of Department Order 2620.6 shall be followed in such instances.

§ 17.100 Dissemination.

(a) *Policy.* Except as otherwise provided in section 102 of the National Security Act of 1947, 50 U.S.C. 403, and 17.96(f) of this regulation, classified information originating within the Department may not be disseminated outside any other agency to which it has been made available without the consent of the Department. Conversely, classified information originating in a department or agency other than the Department shall not be disseminated outside the Department without first obtaining the consent of the originating department or agency. Office, Board, Division and Bureau Security Programs Managers shall establish procedures consistent with this regulation for the dissemination of classified information. The originating official or Office, Board, Division or Bureau may prescribe specific restrictions on dissemination of classified information when necessary.

(b) *Restraint on reproduction.* No documents or materials or any portions thereof that contain Top Secret information shall be reproduced without the consent of the originator or higher authority. Any stated prohibition or markings on any classified document (regardless of classification) against reproduction shall be strictly observed. (See § 17.70.) The following measures apply to reproduction equipment and to the reproduction of classified information:

(1) Copying of documents containing classified information shall be minimized;

(2) Officials within each Office, Board, Division or Bureau shall be authorized by the Security Programs

Manager, in writing, to approve the reproduction of Top Secret and Secret information; shall be designated by position title, and shall review the need for reproduction of classified documents with a view toward minimizing reproduction;

(3) Specific reproduction equipment shall be designated for the reproduction of classified information. Rules for reproduction of classified information shall be posted on or near the designated equipment;

(4) Notices prohibiting reproduction of classified information shall be posted on equipment used only for the reproduction of unclassified information;

(5) Security Programs Managers shall ensure that equipment used for reproduction of classified material does not leave latent images in the equipment or on other material;

(6) All copies of classified documents reproduced for any purpose, including those incorporated into a working paper, are subject to the same controls prescribed for the document from which the reproduction is made; and

(7) Records shall be maintained to show the number and distribution of reproduced copies of all Top Secret documents and of all classified documents covered by special access programs distributed outside the Department. Also, records shall be maintained concerning all Secret and Confidential documents which are marked with special dissemination and reproduction limitations.

§ 17.101 Transmission of Top Secret information.

Transmission of Top Secret information shall be effected only by:

(a) Authorized and cleared Department messenger-courier services;

(b) The Department of State Courier System;

(c) The Armed Forces Courier Service;

(d) Cleared and designated Department employee traveling on a conveyance owned, controlled or chartered by the Government;

(e) Cleared and designated Department employees traveling by surface transportation;

(f) Cleared and designated Department employees traveling on scheduled

commercial passenger aircraft within and between the United States, its Territories and Canada;

(g) Cleared and designated Department contractors traveling within and between the United States and its Territories provided that the transmission has been authorized in writing by the appropriate contracting officer or his/her designated representative and, the designated employees have been briefed in their responsibilities as couriers or escorts for the protection of Top Secret material; or

(h) A cryptographic communication system authorized by the Director, National Security Agency, or other secure communications circuits approved by the Department Security Officer.

§ 17.102 Transmission of Secret and Confidential information.

Transmission of Secret and Confidential information may be effected by:

(a) Any of the means approved for the transmission of Top Secret information except that Secret information may be introduced into the Armed Forces Courier Service only when the control of such information cannot be otherwise maintained in United States custody;

(b) Appropriately cleared Department contractors within and between the United States and its Territories provided that

(1) The designated individuals have been briefed in their responsibilities as couriers or escorts for protecting classified information; and

(2) The classified information remains under the constant custody and protection of the contractor personnel at all times;

(c) U.S. Postal Service registered mail with registered mail receipt within and between the 50 States, the District of Columbia, and Puerto Rico;

(d) U.S. Postal Service registered mail with registered mail receipt through DOD Postal Service facilities outside the 50 States, the District of Columbia, and Puerto Rico, provided that the information does not at any time pass out of U.S. citizen control and does not pass through a foreign postal system or any foreign inspection;